THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT APPEAL NO.2397 of 2005

(DATED: 01.03.2006)

Between:

A.Laxman Rao S/o late Ranga Rao

Occ: Clerk, Andhra Bank, Dilsukhnagar Branch

Hyderabad.

…Appellant

A n d

The Deputy General Manager (HRD) & Appellate Authority

Personnel Department, Andhra Bank, Koti and another

…Respondents

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT APPEAL NO.2397 of 2005

JUDGMENT: (Per Hon'ble Sri Justice B.Prakash Rao)

Heard Sri V.V.Prabhakara Rao, learned counsel appearing on behalf of the appellant and Sri Nuty Ram Mohan Rao, learned counsel appearing on behalf of the

respondents.

The unsuccessful writ petitioner is the appellant herein who seeks to assail the order dismissing the writ petition, which has been filed as against the order dated 27.12.2000 imposing a punishment of compulsory retirement in disciplinary proceedings and as confirmed in appeal on 16.3.2001.

Few facts necessary for disposal of this appeal are that the appellant has been working as Clerk with the respondent. The allegation against the appellant is that the account held by his maternal aunt by name Smt.G.Swarajya Lakshmi, was operated by the appellant in the capacity of joint account holder by obtaining loans fraudulently, which has been denied by the appellant. On the basis of the complaint of the account holder Smt.G.Swarajya Lakshmi, proceedings have been initiated a n d consequently, after holding an enquiry, the punishment of compulsory retirement was imposed on the appellant and appeal there against was rejected. Hence the writ petition.

After contest, the learned single Judge found that having regard to the findings arrived at by the enquiry officer after holding enquiry, it is sufficient enough to hold the appellant guilty and therefore he did not find any error warranting any interference. Hence the Writ Appeal.

Sri V.V.Prabhakara Rao, learned counsel for the appellant strenuously contended that even on a reading of the enquiry report, vis-à-vis, the charges as framed against the appellant, there is nothing to hold against him warranting such a substantial punishment of compulsory retirement. Even otherwise, the quantum of punishment is quite exceedingly high. Hence, the same is liable to be set aside.

Repelling the aforesaid contention, Sri Nuty Ram Mohan Rao, learned senior counsel sought to sustain the findings on the ground that it is not simplicitor making use of the account as such or any absence of allegations of withdrawal of amounts belonging to the account holder, but use of deposits made by her for the purpose of obtaining loans though which has been cleared subsequently. Hence on the facts

and especially having regard to the findings of the enquiry officer, the punishment is quite just and reasonable.

Having considered the submissions made and on perusal of the material the question which arises for consideration is as to whether on the facts and circumstances, there is any warrant for imposing a punishment of compulsory retirement?

There is no dispute to the fact that the appellant has been in service for quite a long time and that his maternal aunt Smt. G.Swarajya Lakshmi made certain deposits and it is she who filed a complaint on 9.2.1998 alleging forgery against the appellant in respect of the account held by her and thereupon the appellant was suspended on 31.12.1999. However, subsequently, it is represented that the complainant herself on 9.3.1999 withdrew the said complaint. In spite of the same, charges were framed and after holding enquiry with due opportunity to the appellant, the report was submitted on 30.6.2000. Thereafter, the appellant was given notice by the Disciplinary Authority on 6.11.2000 to which he submitted explanation on 20.11.2000. Not satisfied thereby, the impugned order of compulsory retirement was passed on 27.12.2000. The appeal preferred by the appellant was of no avail.

On perusal of the entire material and especially the enquiry report vis-à-vis the charge as made, no doubt, there is nothing against the appellant to hold him responsible for misappropriation of withdrawal of the amounts from the account of his maternal aunt Smt.G.Swarajya Lakshmi. However, the allegation is use of deposits made by her, whereupon the appellant had obtained loans. No doubt, though the said account holder gave a complaint on 9.2.1998, but however, having regard to the fact that the appellant appears to have deposited the amounts towards loans, which he has obtained, the complaint was sought to be withdrawn on 9.3.1999. In spite of the same, the fact remains glaringly the addition of appellant's name as a joint account holder along with his maternal aunt in respect of deposits made by her alone. There is no proper explanation forthcoming on behalf of the appellant as to how and on what basis his name was shown along with his maternal aunt as a joint account holder.

There is no dispute to the fact that certain loans have been obtained on the deposits made by her though the said loans have been discharged, but there is no plausible explanation as to how he could obtain such loan without the consent or participation of his maternal aunt. It is these allegations on which the enquiry officer gave a finding against him though on another aspect, he exonerated and ultimately basing on the said findings, the impugned punishment of compulsory retirement was imposed.

The learned single Judge by going into the facts and circumstances has concluded that having regard to the findings of fact, the punishment imposed is quite just and reasonable. We are in entire agreement with the observation of the learned single Judge especially with the aforesaid background and finding of the enquiry officer in regard to the obtaining of loans without the consent of the account holder. Therefore, the order of punishment is quite reasonable and cannot be said to be beyond gravity of the charge made against him.

Hence, we do not find any merits in the appeal and the same is accordingly dismissed. No order as to costs.

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B.PRAKASH RAO, J

01.3.2006

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D.APPA RAO, J

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